

THE PRACTICE
OF
The Marshalls Court :
TOGETHER
With their **F E E S,**
And the several *Charges*
of all *Proceedings* there ;
And its present Establishment :
Particularly set forth and Explained.
Whereby it will appear of
what great *Authority* this Court
hath been in all Times.

LONDON,

Printed for Robert Crofts at the Crown
in Chancery-lane. 1663.

Practice

THE PRACTICE

OF THE

ARTS

AND

OF THE

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N



TO the READER.

IN order to a satisfactory account of this Court and of this endeavour in this Treatise, to shew the nature of its Jurisdiction, its method of Proceeding, and the Clients (both Paintiffes and Defendants) Charge therein, it will be requisite, though in a preposterous
A 4 way

To the Reader.

*way, first to show the
annihilation or nulling of
it in late Times of the
Usurpation, and the be-
ginning of its constitu-
tion, and the reasons
thereof.*

*Indeed, that Disau-
thorizing By-blow of the
Independent Anarchy,
might very well be for-
gotten here, were it not
that the injurious conti-
nuance of that Illegal
Sup-*

To the Reader.

*the Suppression, had almost
of faced the Memory and
the Record thereof, and the
beuine of this Judicature
tu-banged into and become
sonts crime ; which was
imputed to be its charge-
auableness, uselessness, di-
theatoriness and vexation;
ny, whereas indeed it was
or guilty of none of those,
monay of nothing less.*

*All the fault was, this
Court was one of the
neerest*

To the Reader.

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annihilation or nulling of
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To the Reader.

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latoriness and vexation;
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guilty of none of those,
nay of nothing less.*

*All the fault was, this
Court was one of the
neerest*

To the Reader.

nearest Appendixes of the
prerogative of the Crown
and if continued in its
primitive use, would but
a remain and relique of
Monarchy and Majesty,
which they could by
no means endure should
be in the eyes of the People;
which for the accommodation
and benefit of its Jurisdiction,
does seek for speedy redress
from thence rather than
else

To the Reader.

thelſewhere. They likewiſe
previously knew, that this
Court was a ſtanding
Monument of that re-
ſpect and reverence all
Parliaments and the
Laws have throughout all
Times had for the King,
following His Court the
circuit and compaſs which
is now called the Verge
of Twelve Miles round
about it; ſo that in effect
there is no Potentate or
Prince

To the Reader.

Prince in the World
can shew a Palace of such
an extent, nor can any
the most magnificent Sep
raglio compare with it
as my Lord Bacon hath
most elegantly observed in
his Charge to the Grand
Jury of this Court.

Nor did they take care
alone for the outward
State and Splendour of
the Kings Palace in these
dimensions, but for the
inward

To the Reader.

world inward^o Honour and
such Glory thereof, by pre-
serving it as much as was
possible, free from disor-
der and all manner of
Enormity, by erecting
in this Judicature, appoin-
ting and giving extraor-
dinary power and autho-
rity to the Steward of
the Kings Household,
the principal Judge here,
to determine all manner
of Causes criminal, ju-
dicial

To the Reader.

dicial or capital arising
within the Verge; and
this they strengthened and
backed with several lawes
as you will perceiue in the
ensuing Treatise; which
said power is now againe
happily returned into the
same channel. And so
much may suffice to be-
spoke of its Original In-
stitution.

As to the Practice, the
Disuse thereof having
made

To the Reader.

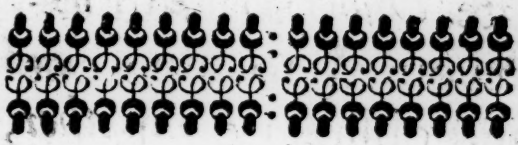
finnade it something diffi-
anult, and the charge of
and Suit there suspectful of
winnovation, I have given
then accompt of the several
ick Rates thereof, that by a
ailue compare it may ap-
theare they are the same as
sever; and also to let the
bReader see the easinesse
In of them beyond the charge
of other Courts; its di-
thpatch and present en-
inding of all Suits; and
ad that

To the Reader.

*that finally its Authority
is as Authentick and
as soveraign as any other
it being a kind of peculiar
Kings-Bench.*

*Both the Name, Na-
ture, and Proceedings
thereof, are fully declared
in the ensuing Tract, to
your Perusal and Accep-
tance whereof we Com-
mend it.*

Vale, eff



THE

PALACE-COURT.

vid. 3 blacksh. 76.
~~Comp. Bl. inf. it.~~
408.

IT is requisite first,
that the Nature of
this Court be under-
stood, and that more
especially, because the
A late

2 *The Palace-Court.*

late *Usurpation* had endeavoured to race out and obliterate the *Jurisdiction* thereof, meerly for being consistent and futed to the *English Laws*, and more especially to the *Kings Person*, *His Court*, and *His Royalties*, the soult and intrinsick matter of *Government*.

First

First, of the Antiquity thereof.

FOr the *Antiquity* of this *Court*, it is as ancient as any other of the *Kings Courts*, if not ancients: *-Curia sequitur Regem*, The Court followeth the KING; and it is therefore peculiarly called the *Palace Court*, referring to

4 *The Palace-Court.*

the KINGS residence;
and this *Court* doth
more especially con-
cern Him, as appears
by the *Statute* of 4 *H.*
6. 8. directing us to the
Statute of the Twenty
eighth of *Edward* the

Coke cap. 18.
Jurisdiction
of COURTS.

First, *Articuli*
super Chartas;

wherein several Provi-
sions were made for the
advantage thereof. No
doubt it is of as long
stan-

e; standing as the *Monar-*
th *chy* of ENGLAND. *Fleta*
n- saith it is next to the
ars *High Court of Parlia-*
H. *ment.*

ty
the
culi
s;
ovi-
the
No
ong
tan-
The Marshal and Mar-
shalsea, whence so
called.

FOR it will appeare
by the terme and
name of this *Court*, that

it was of the same neer
beginning with the *British* Sovereignty: For
as to the derivation of
the terms *Maresballus*
and *Marescalcia*, they
are *Saxon* words, which
nevertheless tend much
to the proof of the *Antiquity* and *Honour* of
our *Nation*, seeing other
Nations have the same
Offices and Officers;
so that in respect the
name

name is derived from
our *Language*, as that
of our *Ancestours*, it
is apparent other *Nati-*
ons took the same from
us

My Lord Justice *Coke*
saith further, That this
Court hath its *Founda-*
tion from the *Common*
Law, and the *Jurisdic-ti-*
on thereof is original
and ordinary.

A 4 The

The Jurisdiction and authority of this Court, and first of its Name.

ALbeit in this Court the Steward and Marshall are Judges, and the Steward hath the precedency, yet the Court is called the *Marshalsea* for three causes.

First, the Marshall is not onely a Judge, but
seeth

feeth *that Execution*,
which is the Life of the
Law, be done.

Secondly, his Office
is in force both in time
of *War* and *Peace*.

Though the *Constable*
of *England* be the chief
Nobleman (which from
the Family of the *Bo-*
huns Earls of *Hereford*,
descended by Inheri-
tance upon the Person
of *Edward* Duke of

10 The Palace-Court.

Buckingham, Attainted
the *thirteenth* Year of
Henry the Eighth, in
whom that too master-
ly an Honour fell) and
hath the precedency in
other places, of the
Marshal of *England*,
yet notwithstanding
though their Power
and Authority were so
untempered, yet the
Marshal-see carried it
through the *Current* of
the *Laws*. The

*The Authority of the
Court.*

THe Authority of
this *Court* was lar-
ger formerly then now,
according to the *Pre-
rogative* of our former
Princes , but in the
Twenty Eighth year of
that noble Prince *Edw.*
the *First*, by an *Act* in-
tituled *Articuli super*
Chartas

Chartas, the Jurisdiction was limited and divided into three Qualifications;

First, to determine all *Covenants*, *Contractes*, and *Trespases*, wherein both *Plaintiff* and *Defendant* were of the Kings Household.

Secondly, all *Contractes* and *Covenants*, which should arise in *Controversie*, if either of
the

the Parties were of the
said Household.

Thirdly, for all manner of *Trespases* and *Personal Actions* arising within the Verge of the *Kings Household*.

Several Variations have been made by Acts of PARLIAMENT since, but now the Establishment is as followeth ;

This

This Court is kept every *Friday* in the *Court-house* on *St. Margarets bill* in *Southmark*, and may be held in any other fit place within 12. Miles of *White-hall*.

The Judges, are, the Lord Stewards of the Kings House, and the Knight Marshal for the time being, and the Steward of the Court or his Deputy.

The

The proceedings in this Court is by Capias or Attachment, which is to be served upon the Defendant, by one of the Knight Marshalls men, who taketh Bond with such Sureties for the Defendants appearance at the next Court as he will answer for, at his perill, the Bayle are to be sufficient Housekeepers within the Jurisdiction

isdiction of the Court,
sufficient to the Action.

And these Processes
are to be had at the
Office of the same
Court, appointed by the
Steward, which every
Minister of the Court
or Marshalls-man can
direct you to.

The Defendant up-
on his appearance must
put in two sufficient
House-keepers, living
within

within the Jurisdiction of the Court, to pay the Condemnation in Court, which if he neglect to do, the Plaintiffe may have the Bond taken for his appearance Assigned over to his use, and so Arrest the Defendant and his Sureties.

The next Court after the Bayle taken and accepted of by the Plain-

Plaintiffe, the Plaintiffe
ought to declare and
set forth the cause of his
Action, and if he do
not declare the Defen-
dant may have an Exe-
cution against him for
his costs and charges,
but if the Plaintiffe do
declare against him
then they go on to Issue
and Tryall by a Jury,
who live within the Ju-
risdiction of the Court,
according

according to the course
of the Common-Law.

In foure or five
Court days, commonly
all your Actions come
to Tryal, so the pro-
ceedings of this Court
are very quick and
speedy, and at small
Charges.

The Actions tryed
there, are of Debt, Tres-
passe, Battery, Slander,
Trover, and all other
Actions

Actions personal whatsoever.

The Fees of this Court I have here set down as they are inserted in the *Letters-Patents*.

The ordinary Fees of the Pallace Court of *Westminster*, to be paid by the *Plaintiff*.

Imprimis,

at-
to
his
set
in-
rs-
ees
urt
be
E.
is,

I *Mprimis*, for every
Writ or *Precept* of
Capias or *Attachment* to
the *Steward* and *Mar-*
shal, *One Shilling*.

To the *Protbonotary*
for *Writing* the *Writ*,
Two Pence.

To the *Marshalls*
man for *executing* or *ser-*
ving it, *One Shilling*
Four pence.

The *Attorneys Fee*
upon every *Declara-*
tion

tion, Issue, Venire Facias, and Habeas corpora Juratorum. One Shilling Eight pence.

For the Warrant of Attourney to the Prothonotary. Four Pence.

For making of every Declaration, and Entry thereof to the Prothonotaries Clerks, One Shilling.

For the Fee of the Court upon every Declaration,

Declaration, Issue, and
 knowledge of Satisfaction
 to the Steward and
 Marshall, One Shilling
 of four pence.

For the marking and
 Filing of every Decla-
 ration, and Entry of
 every Satisfaction to the
 Prothonotary, eight pence

To the Prothonotary
 for entering of every Is-
 sue, and every Verdict
 and Judgement, One shil-
 ling.

The

The Cryers Fee upon every *Issue*, *Four pence*.

For every *Writ* of *Venire facias*, *Habeas corpora*, *distringas Juratores*; and for every other *Writ* of *Execution* and others, *One shilling* and *eight pence*.

To the *Prothonotary* for writing of every of them, *Four pence*.

For the *Return* of every one of them to the *Prothono-*

The Palace-Court. 25

Prothonotary, One shilling.



To the Marshalls
Man for executing e-
very *Venire facias*, Two
shillings.

For the executing of
the *Habeas Corpora*, and
distringas Furatores, to
the Marshalls man, One
shilling and six pence.

To the Cryer for
warning of the *Fury*, Six
pence.

B

For

For every Verdict
and Judgement there-
upon, to the *Steward*
and *Knight Marshall*,
Three shillings and Four
pence.

To the *Prothonotary*
for entring every Bail,
Five pence.

To the Keeper of the
Prison thereupon, *A*
Penny.

For the Attourneys
Fee upon every Bill of
Issue,

et Issue, *Venire facias*, and
e- *Habeas Corpora Furato-*
rd *rum*, One shilling and
l, eight pence.

ur For the Copy of e-
very *Declaration* to the
ry *Prothonotary*, One shil-
l, ling.

ne For every Issue on
A the *Defendants* part, to
the *Steward* and *Mar-*
shall, One shilling and
ys *Four* pence.
of

For every Warrant
of Attourney for the
Defendant, thereupon
to the Prothonotary,
Four pence.

Accidental Fees.

FOR every Rule of
Court to the Pro-
thonotary, *Four pence.*

For the Drawing of
every

every *Declaration, Plea, Rejoynder, Sur-rejoynder, Moratur in Lege,* for every Sheet to the *Protbonotaries Clerk,* *Four pence.*

For the Inrolment thereof, to the *Protbonotary* for every Sheet, *Eight pence.*

For every Writ of *Subpena* to the *Steward* and *Marshall,* *Two shillings.*

For the writing thereof, and of every *decemtales*, and of every *Retraxit* to the *Prothonotary*, *Six pence*.

For the allowing of every *Writ* of *Procedendo*, to the *Steward* and *Marshall*, *One shilling and eight pence*.

For the *Entry* thereof, and of every *Continuation*, and for the *Assigning* of an *Obligation*

ere- gation for Appearance
cem on Record to the Pro-
Re-thonotary, *Eight pence.*

no- To the Marshalls
man for keeping the
of *Jury, One shilling.*

ce- To the Hall-keeper,
rd *One shilling.*

it- To every Councel-
lor at Law for his Fee,
e- *Five shillings.*

n- To the Cryer for
e Proclamation of every
i- Jury, *Six pence.*

n B 4 To

To the Attourneys
Clerk for every Bill of
Costs, *Eight pence.*

*For ordinary Fees to be
paid by the Defendant.*

FOR the Knight-
Marshalls Fee upon
every Arrest, *Three
shillings and Six pence.*

To the Prothonotary
thereupon

thereupon, *Ten pence.*

To the Keeper of the
Prison thereupon, *Four
pence.*

To the Turn-key
thereupon, *Four pence.*

For every Bail in
Court, and every Bill
to the *Steward* and
Knight Marshall, *One
shilling and Four pence.*

For executing every
Writ of *Scire facias*, to
the Cryer, *One shilling.*

B 5

For

For the Copy of every Record, to the Prothonotary for every Sheet thereof, *Four pence.*

To the Cryer for every *non pros*, *four pence.*

For every *Venire facias*, *Habeas corpora*, or *Distringas Juratores per proviso*, to the Steward and Knight Marshall, *One shilling and Eight pence.*

For

For writing thereof
to the Prothonotary,
Four pence.

For executing there-
of, to the Cryer, *Two*
Shillings.

For the Return
thereof to the Protho-
notary, *One shilling.*

For the keeping the
Jurors thereof, to the
Cryer, *One shilling.*

For every *Non pros*,
and every Allowance
of

of *Habeas Corpus*, *Writ*
of *priviledge*, *Superse-*
deas, and every other
such like *Writ*, to the
Steward and Marshall,
One shilling and Eight
pence.

For the Entry of e-
very one of them, on
Record, to the Pro-
thonotary, *Eight pence.*

For the Return of e-
very such *Writ* to the
Steward and Marshall,
One

One shilling and Four pence.

For writing the Return thereof, for every Action to the Prothonotary, *One shilling.*

For the Allowance of every Writ of Error, to the *Steward* and *Marshall*, *One pound.*

For the Prothonotary for Entry thereof, *Two shillings.*

For

For every Writ of Superfedeas, *Two shillings and Six pence.*

For Certifying of Records to the Prothonotary for the writing of every Roll of Parchment thereof, *Six shillings and eight pence.*

For Correction of every Prisoner, in Execution, to the Keeper of the Prison, *One shilling and Six pence.*

For

For the Prothonotaries Clerk's Fee thereupon, *One shilling and Six pence.*

To the Turnkey thereupon, *One shilling Four pence.*

For the Prothonotaries Clerks Fee for the Entry of the Cause of Suit, and Release of every Prisoner, *Four pence.*

Upon

Upon every Obligation of Appearance of the Prisoner to the said Clerk, Six pence.

HAVING thus set down the *Fees* of this Court, that all *Clients* may know their certain charge without the

a- the trouble or danger of
of Exaction, and to show
d the reasonablenesse and
easie Rates thereof to
what is used in other
Courts, it will not be a-
misse after this *litigant*
part of this *Court* is
thus described, to speak
et a little of its Jurisdiction
of on by way of Indict-
i- ment, and reference to
ir to the Peace.

You

You may know therefore, as the Learned Lord *Bacon* saith in his *Charge* given to the *Verge*, that these foure things are cognizable and Inquirable in this *Court*, as well as in any other of the Kings *Courts* at *Westminster* or else, for all Matters and *Trespases* committed within the circuit of the *Verge*

First,

First, All manner of Offences against God and the Church, contrary to the Statutes made against them, as *Sacrilege*, *Blasphemy*, *Recusancy*, *Separation*, and the like.

Secondly, All manner of Offences against the King and the State, (more particularly the Person of the King) as *Treasons*, *Conspiracies*,
Riots,

Riots, Tumults, and
other lesser Offences of
the same kind and na-
ture, and Generally
whatever disturbs the
Publick Peace.

Thirdly, All manner
of Offences that are
capital, and reach to
the Life of the Offen-
der.

Fourthly, All manner
of Offences not capi-
tal, extending to *Fines,*

Im-

nd Imprisonment , and Loss
of of Limbs , Pillory and
na Whipping.

lly All these particulars
he were usually heard and
determined at Set times
ner in the Yeer , by the
are Lord Steward himselfe
to in person , but of late
en by *Commission* , which as
it hath taken something
net from the Honour , so
pi hath it added to the
es, Strength and Executi-
m- on

on of its Authority; as
 so that you may see, as
 hath been said, that
 this Court hath always
 been had in great vene-
 ration and respect.

It remains that some-
 thing should be said
 touching *Attatchments*,
Sequestrings, *Distresses*,
Replevins, &c. as like-
 wise of *Wagers of Law*,
Demurrers, and other
 such Legal Defences;
 and

and the Method and
way of Proceeding in
this *Court* in such *Cases*;
but because there is lit-
tle variation here, from
other *Courts* in the same
Matters, save a due
disproportion in *Fees*,
not very considerable;
and because the practice
is more frequent in *Cor-
poration-Courts* than here
they are omitted in this
little Treatise, which is
intend-

intended for no prolix
Repetition of that which
every person is suppo-
sed to have some under-
standing in, or may ea-
sily attain it by former
Directions.

Thus have I conclu-
ded the Account of this
most Ancient and most
Honourable *Court*, ha-
ving been the larger in
deducing its Jurisdic-
tion, because of the pet-
ty

lix ty meane conceit and
ch estimation people gene-
por rally have had thereof,
er- (though its Decrees are
ea- as valid and binding as
ner of any of the Benches
of Law at *Westminster*)
lu desiring the Reader to
his accept of this Ende-
ost vour in good part, and
ha wherein it is not fully
r n satisfactory, to help it
di by his own observance,
bet which a small practice

ty D or

or Suit will enable him to make therein. But before I have done, you must note, that as to Juries and Jurors this Court is not limited to Freeholders, but may be served by any sufficient Inhabitants within the Verge; which also is not limited and confined in this or any other Residence of the Kings person, which alone

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him alone makes the place
But he stays at a Court;
he, but wherever it shall
as happen for pleasure,
his convenience, or other
to causes, as Sicknesse,
ay Infection, and the like,
fi. this Jurisdiction follow-
h. eth His abode, and may
ch be executed in as full
d & ample manner with-
y in any 12 Miles of His
e abode and habitation;
h though for the Honour

of the Kings ancient Mansion, neer this His Imperial Chamber, the Cities of *London* and *Westminster*, in all removes of the King and His Court, the Law proceeds here, and Trials are had, and Judgement and Execution as of course, and as used before.

But there must be a special care used by the
Mar-

nt Marshals men and o-
his ther his Officers, that
he *they passe not the Verge*
nd in doing or executing
re- any Process or Judge-
nd ment; for there is a Sta-
w tute to the contrary,
ri- made upon complaint
ge- of the exorbitant act-
as ings and unwarrantable
ed proceedings in former
nt times: And as 'tis a
a Maxime and chief San-
the ction of the Law; that

ar- D 3 *the*

the King can do no wrong,
so especial care is to be
had in the administration
of this Judicature,
that His Subjects receive
none, being so
neerly under his eye
and protection, and his
Court supposed by the
Law to be a sanctuary
and shelter from all in-
justice and oppression.
So that there is no fear
of injury and Fraud in
this

this Court, in regard
the King is in some sort
more personally present
here than in other his
Judicatures.

I thought to have ad-
ded the Names of the
distinct Offices and Of-
ficers belonging to this
Court for further satis-
faction, but I must not
swell the Book, which
hath exceeded its first
designement.

FINIS.